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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,209	10/18/2007	Christopher Pearce	1074-024US04/PB0010031.09	7650
53049 7590 10/19/2010 SHUMAKER & SIEFFERT, P.A. 1625 Radio Drive Suite 300 St. Paul, MN 55125				
EXAMINER DIETRICH, JOSEPH M				
ART UNIT		PAPER NUMBER		
3762				
NOTIFICATION DATE		DELIVERY MODE		
10/19/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pairedocketing@ssiplaw.com

Office Action Summary

Application No.

10/583,209

Applicant(s)

PEARCE ET AL.

Examiner

Joseph M. Dietrich

Art Unit

3762

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-42, 44-56 and 58-63 is/are rejected.
- 7) ☒ Claim(s) 43 and 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____
- 7) ☐ Notes of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date 8/4/10

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 35 - 63 have been considered but are moot in view of the new ground(s) of rejection, necessitated by amendment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 35 – 37, 40, 41, 44, 50 – 52, 55, and 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. (USPN 6,141,584) in view of Unger (USPN 3,724,455).

Regarding **claims 35, 40, 41, 50, and 55**, Rockwell discloses a modular external

defibrillator system and method, comprising: a base containing a display and an external defibrillator module (e.g. 108 in Fig. 5); a first pod operable when separated from the base (e.g. Fig. 5), the first pod having a first patient parameter module and connectable to the patient to collect first patient data related to a first patient vital sign (e.g. column 6, lines 51 – 56); the first pod capable of wirelessly transmitting the first patient data to the base (e.g. Fig. 5); the pod having a second patient parameter module to collect second patient data related to at least a second patient vital sign independent from the first vital sign (e.g. column 12, lines 1 – 3); in which, when one of the first or second patient data is transmitted to the base, the base is configured to display an aspect of the transmitted one of the first or second patient data (e.g. Fig. 8). Unger teaches it is known to use two or more pods (e.g. 20, 22, and 24) each connectable to a patient via patient lead cables to collect patient data (e.g. ELECTRODES in Fig. 1) and the able to transmit the data wirelessly to the base (e.g. column 3, line 61 - column 4, line 3). Unger also teaches it is known to select one of the first or second pods over the other to transmit to the base the patient data the selected pod collects (e.g. column 4, lines 12 – 20; the base necessarily selects whichever one of the pods establishes a communication session with the base). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pod collecting first and second patient data as taught by Rockwell with multiple pods as taught by Unger, since such a modification would provide the predictable results of minimizing the circuitry needed for each pod, since each pod would only be required to collect one type of patient data.

Regarding **claims 36 and 51**, Rockwell discloses delivering the defibrillation shock based on the one of the first or the second patient data transmitted to the base (e.g. column 8, lines 52 – 59).

Regarding **claims 37 and 52**, Rockwell discloses the first pod contains an interpretive algorithm to analyze the patient condition based on the first patient data (e.g. column 6, lines 51 – 55).

Regarding **claims 44 and 58**, Rockwell discloses communicating with the pod, as previously mentioned. Unger teaches that it is known to transfer a unique pod identifier from the selected pod to the base (e.g. column 4, lines 4 – 11). Because each pod is assigned a different frequency, the frequency which it transmits the data is a unique pod identifier, since it indicates which pod is doing the transmission. Similarly, for the base to have a communication session with the selected pod, it must "identify" the selected pod using the assigned frequency. It would have been obvious to modify the communication as taught by Rockwell with the communication through use of a unique pod identify as taught by Unger, since such a modification would provide the predictable results of easily recognizing and choosing the desired pod.

5. Claims 38, 45, 53, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. in view of Unger as applied to claims 35 and 50 above, and further in view of Snell (USPN 6,978,181).

Regarding **claims 38, 45, 53, and 59**, Rockwell in view of Unger discloses the base communicating with a selected pod, as previously mentioned. Snell teaches that it

is known to use a telemetric network that uses an alarm when several devices are trying to make a wireless connection and indicating which is the selected device (e.g. column 6, lines 11 – 21 and column 7, lines 9 – 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wireless link as taught by Rockwell in view of Unger with the telemetric network as taught by Snell, since such a modification would provide the predictable results of avoiding interference between the pods and allowing the user to easily identify the selected pod.

6. Claims 39 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. in view of Unger as applied to claim 23 above, and further in view of Covey et al. (US PGPUB 2004/0162586).

Regarding **claims 39 and 54**, Rockwell in view of Unger discloses the claimed the wireless communication, as previously mentioned. Covey teaches it is known to wirelessly send encrypted data from a device to a base (e.g. paragraph 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wireless link as taught by Rockwell in view of Unger with the encrypted wireless link as taught by Covey, since such a modification would provide the predictable results of protecting the information sent and maintaining confidentiality.

7. Claims 42 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. in view of Unger as applied to claims 35 and 50 above, and further in view of Reyes (USPN 5,105,821).

Regarding **claims 42 and 56**, Rockwell in view of Unger discloses selecting a desired pod, as previously mentioned. Reyes teaches it is known to form a communication session with a pod through a direct, wired connection (e.g. 10 in Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the communication link as taught by Rockwell in view of Unger with a wired connection as taught by Reyes, since such a modification would provide the predictable results of providing a secure medium for transmitting data from the pod to the base.

8. Claims 46 – 49 and 60 – 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et al. in view of Unger as applied to claims 35 and 50 above, and further in view of Khair et al. (USPN 6,441,747).

Regarding **claims 46 – 49 and 60 – 63**, Rockwell in view of Unger discloses a wireless communication, as previously mentioned. Khair teaches it is known to have a wireless device enter a power saving sleep mode, alert the user, and restrict the data when the communication link is lost or degraded (e.g. column 14, line 60 – column 15, line 30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention as taught by Rockwell in view of Unger with alerting the patient and changing the mode when the wireless communication link is lost or degraded as taught by Khair, since such a modification would provide the predictable results of allowing a user to quickly re-establish a communication link between the base and the pod in case the link is lost.

Allowable Subject Matter

9. Claims 53 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Dietrich whose telephone number is (571)270-1895. The examiner can normally be reached on M-F, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on 571-272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. D./
Examiner, Art Unit 3762

/Scott M. Getzow/
Primary Examiner, Art Unit 3762